

IN THE SUPREME COURT OF THE STATE OF MONTANA

DA 10-0161

FILED

JUN 23 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA
ORDER

BNSF RAILWAY COMPANY, a Delaware
corporation,

Petitioner and Appellant,

v.

CHAD CRINGLE; MONTANA DEPARTMENT OF
LABOR AND INDUSTRY, and HUMAN RIGHTS
COMMISSION,

Respondents and Appellees.

Before this Court is BNSF Railway Company's (BNSF) Motion for Relief from District Court's Order Denying its Motion for Stay of Execution of Judgment and Request for Approval of Supersedes Bond. BNSF has appealed from the District Court's March 15, 2010 Order and March 29, 2010 Nunc Pro Tunc Order of dismissal and from the court's Judgment entered on April 9, 2010, awarding monetary and non-monetary relief to Chad Cringle (Cringle), respondent in the underlying action, in the First Judicial District Court, Lewis and Clark County, Cause No. BDV-2009-1016. BNSF moved for a stay of execution pending appeal and a request for approval of supersedes bond. Cringle objected and the District Court summarily denied BNSF's motion. BNSF asks this Court to now step in and issue the stay order and order approving its offered supersedes bond.

Cringle opposes BNSF's motion, arguing that he is entitled to the benefit of his judgment against BNSF pending appeal and cites to the District Court's knowledge of the facts of the underlying case—involving a discrimination claim by Cringle against BNSF—and Cringle's desperate financial circumstances and need for the monetary relief he was awarded.

M. R. App. P. 22 provides a detailed procedure to be followed where a party seeks a stay of judgment pending appeal in this Court. Undisputedly, M. R. App. P. 22(1)(b)

and (d) was not followed by the District Court in this case. This rule was adopted precisely for cases such as this. If a party seeks a stay of execution of judgment in this Court under M. R. App. P. 22(2), our decision may well turn on the rationale of the trial court's denial of the party's similar motion under M. R. App. P. 22(1)(b) and (d). And, as noted, here, no rationale has been provided. Because M. R. App. P. 22(1)(b) and (d) were not followed, we decline to rule on BNSF's motion at this time. Rather,


IT IS ORDERED that BNSF's motion shall be held in abeyance and this cause is remanded to the District Court for further proceedings, and within 20 days of the date hereof the District Court is directed to enter findings of fact, conclusions of law and an order in compliance with M. R. App. P. 22(1)(b) and (d). A copy of the court's findings of fact, conclusions of law and order shall be filed forthwith in this Court.


IT IS FURTHER ORDERED that upon filing of the trial court's findings of fact, conclusions of law and order, BNSF and Cringle shall each have 10 days in which to file, simultaneously, a brief, limited to 5 pages of text, arguing for and against the trial court's decision.

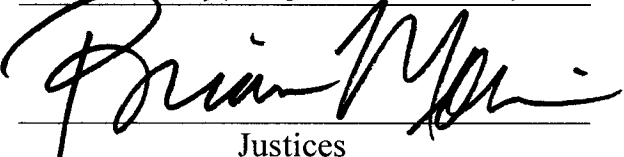
The Clerk of this Court is directed to give notice of this Order to counsel of record and to the Hon. Jeffrey M. Sherlock, District Judge Presiding.

Dated this 22nd day of June, 2010.


Chief Justice


William S. Levesque


Patricia Cottes


Brian M. Mori
Justices